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THIS IS NOT A DISCIPLINARY
ACTION OR FINAL DECISION
OF THE BOARD

8 **BEFORE THE**
9 **CALIFORNIA BOARD OF ACCOUNTANCY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2011-22

13 **OSCAR ODELL MOON**
P.O. Box 3130
Victorville, CA 92393-3130

ACCUSATION

14 Certified Public Accountant Certificate No.
15 27115

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

22 2. On or about December 1, 1978, the California Board of Accountancy issued Certified
23 Public Accountant Certificate Number 27115 to Oscar Odell Moon (Respondent). On or about
24 October 20, 2006 Respondent's Certificate was revoked pursuant to the disciplinary matter
25 entitled Board's decision in *Accusation vs. Oscar Odell Moon*, case no. AC-2004-41, however
26 revocation was stayed, and Respondent placed on probation for three years with terms and
27 conditions, including a three months suspension. The probation was completed on October 19,
28 2009. The Certificate will expire on July 1, 2013, unless renewed.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 5109 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of or action or disciplinary proceeding against the licensee, or to render a decision suspending or revoking the license

5. Section 5100 of the Code states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

. . .

"(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

. . .

6. Section 5107(a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Negligent Acts)**

3 7. Respondent is subject to disciplinary action under Business and Professions Code
4 section 5100, subsection "c" for unprofessional conduct due to his repeated negligent acts in
5 failing to complete and file tax documents for tax years 2006 and 2007 in a timely manner for
6 client RM, and in failing to make timely response to inquiries about the unfilled documents, as
7 follows:

8 A. On or about September 12, 2006, Respondent was engaged to perform tax and other
9 services for RM and his company.

10 B. Respondent prepared the 2006 returns on or about December 19, 2008. However, he
11 did not provide the returns to RM until more than a month later – on approximately January 23,
12 2009, causing additional delays for the late-filed tax returns.

13 C. On multiple dates in 2009, Respondent received tax notices regarding the
14 suspension/forfeiture and levy against RM's corporation. By his own admission, Respondent
15 made no timely response to these notices.

16 D. Respondent committed repeated acts of negligence during his engagement for client
17 RM and his company, as follows:

18 (1) Respondent failed to provide RM his 2006 individual income tax returns once
19 completed, causing an additional delay of approximately 1 month.

20 (2) Respondent failed to respond to multiple tax notices regarding the
21 suspension/forfeiture and levy against RM's corporation received from his client.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Gross Negligence and/or Repeated Negligent Acts)**

24 8. Respondent is subject to disciplinary action under Business and Professions Code
25 section 5100, subsection "c" for unprofessional conduct due to his gross negligence and/or
26 repeated negligent acts in services provided to corporate client Property Verification Services,
27 Inc.(PVS) in failing to timely prepare documentation for dissolution of the corporation and failing
28 to properly complete and file tax documents for tax year 2007 as follows:

1 A. At all times relevant herein GM was the authorized representative of Property
2 Verification Services, Inc. (PVS), a corporation.

3 B. Pursuant to GM's request during or prior to an in-person meeting with Respondent,
4 on or about July 16, 2007, Respondent agreed to prepare documentation required to dissolve the
5 corporation (PVS), including final corporate tax returns.

6 C. Despite assurances to GM that he was handling PVS tax matters, Respondent failed to
7 timely prepare documentation required to dissolve the corporation, and failed to comply with tax
8 preparation requirements for a final return, resulting in delinquency notifications and penalties to
9 the client.

10 D. Respondent committed multiple acts of gross negligence and/or repeated acts of
11 negligence during his engagement related to PVS as follows:

12 (1) Respondent prepared the final 2007 corporation tax returns for PVS without
13 complying with the requirements for a final return including, but not limited to, filing, timely, the
14 appropriate documentation with the California Franchise Tax Board (FTB) and California
15 Secretary of State (SOS) to dissolve the corporation.

16 (2) Respondent failed to respond to tax notices received from his client related to
17 PVS. Respondent received the tax notices but did not take action to address the issue(s)
18 underlying the notice, i.e., dissolution of the corporation.

19 (3) After the Board initiated its investigation of his conduct related to PVS in
20 Summer 2009, Respondent agreed to prepare the documentation necessary to dissolve the
21 corporation. However, he prepared forms incorrectly, did not file the forms with the correct
22 agency and otherwise engaged in new and additional acts of negligence related to the PVS returns
23 as follows:

24 (a) Respondent prepared Form FTB 3557BC (dated September 19, 2009) to revive
25 the corporation from the suspended status as required. However, the form was sent to the
26 Secretary of State rather than the FTB.

27 (b) The filing of Form FTB 3557BC required submission of all required payments,
28 returns or documents. However, PVS's Form 100 for 2009 was submitted by

1 Respondent without required payments of (1) the \$800 minimum FTB tax, and (2) a
2 \$250 SOS Certification (a penalty previously assessed). Nor did Respondent advise GM
3 and/or PVS that these payments were required.

4 (c) Respondent sent the 2009 tax return to the SOS but not to the FTB as required.

5 (d) Respondent prepared SOS Form ELEC STK (Domestic Stock Corporation
6 Certificate of Election to Wind Up and Dissolve) but did not complete the form election
7 item three.

8 DISCIPLINARY CONSIDERATIONS

9 9. To determine the degree of discipline, if any, to be imposed on Respondent,
10 complainant alleges as follows:

11 **Previous Discipline**

12 A. Effective October 20, 2006, in a prior disciplinary action, Respondents'
13 Certificate was revoked pursuant to the Board's decision in *Accusation vs. Oscar Odell Moon*,
14 Case No. AC-2004-41, however revocation was stayed, and Respondent placed on probation for
15 three years with terms and conditions, including a three months suspension. The probation was
16 completed on October 19, 2009.

17 In settlement of the prior disciplinary action, Respondent admitted all charges of the
18 accusation including that he failed to comply with applicable professional standards of due care
19 and diligence in discharging his responsibilities to a client between approximately May and
20 October 2002, in relation to a State Board of Equalization audit.

21 PRAAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the California Board of Accountancy issue a decision:

24 1 Revoking or suspending or otherwise imposing discipline upon Certified Public
25 Accountant Certificate Number 27115, issued to Oscar Odell Moon

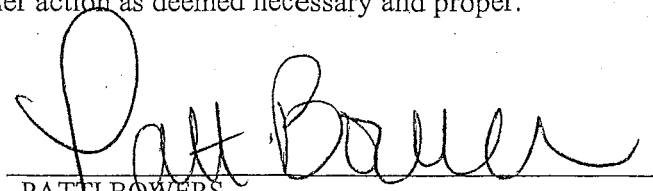
26 2. Ordering Oscar Odell Moon to pay the California Board of Accountancy the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 5107;

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3. Taking such other and further action as deemed necessary and proper.

DATED:

October 27, 2011



PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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